



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-1801-N]

Medicare Program; Announcement of the Advisory Panel on Hospital Outpatient Payment Meeting – August 21-22, 2023 – and New Panel Members

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces the dates and times of a virtual meeting of the Advisory Panel on Hospital Outpatient Payment (the Panel) in August of 2023. In addition, it announces 8 new membership appointments to the Panel. The purpose of the Panel is to advise the Secretary of the Department of Health and Human Services and the Administrator of the Centers for Medicare & Medicaid Services concerning the clinical integrity of the Ambulatory Payment Classification groups and their associated weights, which are major elements of the Medicare Hospital Outpatient Prospective Payment System (OPPS) and the Ambulatory Surgical Center payment system; and supervision of hospital outpatient therapeutic services. The advice provided by the Panel will be considered as we prepare the annual update for the OPPS.

DATES: Virtual meeting dates: Monday, August 21, 2023 and Tuesday, August 22, 2023, from 9:30 a.m. to 5 p.m. Eastern Daylight Time (EDT). The times listed in this notice are EDT and are approximate times. Consequently, the meetings may last longer or be shorter than the times listed in this notice, but will not begin before the posted time.

Deadline for presentations and comments: Presentations or comment letters must be received by 5 p.m. EDT on Monday, July 31, 2023. Presentations or comment letters must be submitted through the “Hospital Outpatient Payment (HOP) Panel Meeting Presentation & Comment Letters” module. To access the module, go to <https://mearis.cms.gov> to register, log in, and submit your presentation or comment letter. CMS can only accept HOP Panel

Meeting presentations and comment letters that are submitted via MEARIS™. Please note that with the submissions in MEARIS™, CMS no longer requires the completion or submission of form CMS-20017, as part of the presentation or comment letter package. Therefore, submitters do not need to complete this form.

Presentations and comment letters that are not received by the due date and time will be considered late or incomplete and will not be included on the agenda. Presentations and comment letters may not be revised once they are submitted. If a presentation or comment letter requires changes, a new submittal must be submitted by July 31, 2023.

Please see additional information regarding the submission of section 508 compliant presentation and comment letter materials in section “III. Presentations and Comment Letters” of this notice.

ADDRESSES: Virtual meeting location and webinar: The public may participate in this meeting via webinar, or listen-only via teleconference. Closed captioning will be available on the webinar. Teleconference dial-in and webinar information will appear on the final meeting agenda, which will be posted on our website when available at:

<https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups>.

Websites: For additional information on the Panel, including the Panel charter, and updates to the Panel’s activities, we refer readers to view our website at:

<https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups>.

Information about the Panel and its membership in the Federal Advisory Committee Act database are located at: <https://www.facadatabase.gov>.

Virtual meeting registration: While there is no meeting registration, presenters must be identified and included as part of the MEARIS™ presentation submission process by the presentation and comment letter deadline specified in the “DATES” section of this notice. We

note that no advanced registration is required for participants who plan to view the Panel meeting via webinar, listen via teleconference, or may wish to make a public comment during the meeting.

FOR FURTHER INFORMATION CONTACT: Nicole Marcos, Designated Federal Official by email at: APCPanel@cms.hhs.gov.

Press inquiries are handled through the CMS Press Office at (202) 690-6145.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Department of Health and Human Services (the Secretary) is required by section 1833(t)(9)(A) of the Social Security Act (the Act) and is allowed by section 222 of the Public Health Service Act to consult with an expert outside panel, such as the Advisory Panel on Hospital Outpatient Payment (the Panel), regarding the clinical integrity of the Ambulatory Payment Classification (APC) groups and relative payment weights. The Panel is governed by the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), as amended (5 U.S.C. Appendix 2), to set forth standards for the formation and use of advisory panels. We consider the technical advice provided by the Panel as we prepare the final rule and the following calendar year’s proposed rule to update the Hospital Outpatient Prospective Payment System (OPPS).

II. Virtual Meeting Agenda

The agenda for the August 21 and 22, 2023 virtual Panel meeting will provide for discussion and comment on the following topics as designated in the Panel’s Charter:

- Addressing whether procedures within an APC group are similar both clinically and in terms of resource use.
- Reconfiguring APCs.
- Evaluating APC group weights.
- Review packaging costs of items and services, including drugs and devices, into

procedures and services, including the methodology for packaging and the impact of packaging the cost of those items and services on APC group structure and payment.

- Removing procedures from the inpatient only list for payment under the OPPS.
- Using claims and cost report data for the Centers for Medicare & Medicaid Services’

(CMS) determination of APC group costs.

- Addressing other technical issues concerning APC group structure.
- Evaluating the required level of supervision for hospital outpatient services.
- OPPS APC rates for covered Ambulatory Surgical Center (ASC) procedures.

The agenda will be posted on our website at: <https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups>

approximately 1 week before the meeting.

Virtual Meeting Information Updates: The actual meeting hours and days will be posted in the agenda. As information and updates regarding this webinar and listen-only teleconference, including the agenda, become available, they will be posted to our website at:

<https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups>

III. Presentations and Comment Letters

The subject matter of any presentation and comment letter must be within the scope of the Panel as designated in the Charter. Any presentations or comments outside of the scope of the Panel will be returned or requested for amendment. Unrelated topics include, but are not limited to: the conversion factor; charge compression; revisions to the cost report; pass-through payments; correct coding; new technology applications (including supporting information / documentation); provider payment adjustments; supervision of hospital outpatient diagnostic services; and the types of practitioners that are permitted to supervise hospital outpatient services. The Panel may not recommend that services be designated as nonsurgical extended duration therapeutic services. Presentations or comment letters that address OPPS

APC rates as they relate to covered ASC procedures are within the scope of the Panel; however, ASC payment rates, ASC payment indicators, the ASC covered procedures list, or other ASC payment system matters will be considered out of scope. The Panel may use data collected or developed by entities and organizations other than the Department of Health and Human Services or CMS in conducting its review. We recommend organizations submit data for CMS staff and the Panel's review. All presentations are limited to 5 minutes, regardless of the number of individuals or organizations represented by a single presentation. Presenters may use their 5 minutes to represent either one or more agenda items.

Section 508 Compliance

For this meeting, we are aiming to have all presentations and comment letters available on our website. Materials on our website must be section 508 compliant to ensure access to Federal employees and members of the public with and without disabilities. Presenters and commenters should reference the guidance on making documents section 508 compliant as they draft their submissions, and, whenever possible, submit their presentations and comment letters in a 508 compliant form. The section 508 guidance is available at:

<https://www.cms.gov/research-statistics-data-and-systems/cms-information-technology/section508>. Presentations and comment letters should limit the use of graphs or pictures. Any use of these visual depictions must include alternate text that verbally describes what these visuals convey.

We will review presentations and comment letters for section 508 compliance and place compliant materials on our website. As resources permit, we will also convert non-compliant submissions to section 508-compliant forms and offer assistance to submitters who are making their submissions section 508-compliant. All section 508-compliant presentations and comment letters will be made available on the CMS website. If difficulties are encountered accessing the materials, please contact the Designated Federal Official in the **“FOR FURTHER INFORMATION CONTACT”** section of this notice.

IV. Virtual Formal Presentations

In addition to formal presentations (limited to 5 minutes total per presentation), there will be an opportunity during the meeting for public comments as time permits (limited to 1 minute for each individual and a total of 3 minutes per organization).

V. Panel Recommendations and Discussions

The Panel's recommendations at any Panel meeting generally are not final until they have been reviewed and approved by the Panel on the last day of the meeting, prior to the final adjournment. These recommendations will be posted to our website after the meeting.

VI. Membership Appointments to the Advisory Panel on Hospital Outpatient Payment

The Panel Charter provides that the Panel shall meet up to 3 times annually. We consider the technical advice provided by the Panel as we prepare the OPPS proposed and final rules to update the OPPS for the following calendar year. The Panel shall consist of a chair and up to 15 members who are full-time employees of hospitals, hospital systems, or other Medicare providers that are subject to the OPPS. The Panel may also include a representative of a provider with ASC expertise, who advises CMS only on OPPS APC rates, as appropriate, impacting ASC covered procedures within the context and purview of the Panel's scope. The Secretary or a designee selects the Panel membership based upon either self-nominations or nominations submitted by Medicare providers and other interested organizations of candidates determined to have the required expertise. For supervision deliberations, the Panel may include members that represent the interests of critical access hospitals, who advise CMS only regarding the level of supervision for hospital outpatient therapeutic services. New appointments are made in a manner that ensures a balanced membership under the Federal Advisory Committee Act guidelines. The Secretary rechartered the Panel in 2022 for a 2-year period effective through November 20, 2024. The current charter is available on the CMS website at: <https://www.cms.gov/files/document/2022-hop-panel-charter.pdf>. New appointments are made

in a manner that ensures a balanced membership under the Federal Advisory Committee Act guidelines. The Panel consists of the following current members and a Chair:

- E. L. Hambrick, M.D., J.D., CMS Chairperson.
- Carmen Cooper-Oguz, P.T., D.P.T, M.B.A, C.W.S, W.C.C.
- Bo Gately, M.B.A.
- Scott Manaker, M.D., Ph.D.
- Matthew Wheatley, M.D., F.A.C.E.P.

Request and Submission of the Panel Nominations

The Request for Nominations to the Advisory Panel on Hospital Outpatient Payment notice (87 FR 68499) provided for nominations to be accepted through February 13, 2023 or after that date at CMS's discretion.

As a result of that notice, we are announcing 8 new members to the Panel. These 8 new Panel member appointments will assure that we continue to have a Chair and up to 15 members available to attend our scheduled meeting.

New Appointments to the Panel

New members of the Panel will have terms beginning on July 1, 2023 and continuing through June 30, 2027. The new members of the Panel are as follows:

- Becky Bean, BS, MHA/MBA, PharmD.
- Thomas Capco, BSRT, RRT, CPFT.
- Blake Dirksen, MS, DABR.
- Nancy Dawson, MD, FACP.
- Brandon Fazio, BS.
- Rahul Seth, DO, FASCO.
- Wendi Smith Lloyd, CPC, COC, CPMA, COSC.
- William Tettelbach, MD, FACP, FIDSA, FUHM, MAPWCA, CWSP.

We currently accept nominations on a continuous basis to fill upcoming panel vacancies.

We encourage additional submissions. Any interested person or organization may nominate qualified individuals. Self-nominations from qualified individuals are also accepted. Nominations must be submitted through the “Hospital Outpatient Payment (HOP) Panel Member Nomination” module on MEARIS™. To access the module, visit <https://mearis.cms.gov> to register, log in, and submit your nomination. We can only accept HOP Panel Member nominations that are submitted via MEARIS™.

VII. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Evell J. Barco Holland, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: July 13, 2023.

Evell J. Barco Holland,

Federal Register Liaison,

Centers for Medicare & Medicaid Services.